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| FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413 | | | | |
| EXAMINER | | | | |
| MAKI, STEVEN D | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/560,890

Applicant(s)

STEINBACH, GUNTER

Examiner

Steven D. Maki

Art Unit

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 38-74 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 38-74 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/08)
Paper No(s)/Mail Date 121605.091808.022009
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

- 1) The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 2) Claims 65-74 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 65 is indefinite because the scope and meaning of "enhancing water-draining capacity of the front tire under a ground contacting area within a central zone of the tread band of the front tire; and enhancing traction capacity of the rear tire by providing a substantially null seal/land ratio within a central zone of the tread band of the rear tire" (emphasis added) is ambiguous. One of ordinary skill in the art is not reasonably appraised of the scope of protection afforded by the above noted language. It is uncertain if the enhancing steps are active method steps. Claim 65 is indefinite because it appears to fail to require an active/positive method step such as mounting the tires. It appears that the "enhancing" is descriptive of the properties of the tires instead of a method step. If enhancing is an active/positive method step, then it is unclear from what the specified capacity is enhanced. With respect to the "step" of "enhancing water-draining capacity of the front tire under a ground contacting area within a central zone of the tread band of the front tire", this step is especially ambiguous. It is unknown which tires are included by this language and which tires are excluded by this language. It is unclear for example, if the arrangement of the grooves and/or the composition of the tread and/or addition of sipes and/or something else is required to "enhance water-draining capacity".

3) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5) **Claims 38-43, 45, 48, 53-56, 58, and 61-63 are rejected under 35 U.S.C. 102(b) as being anticipated by German 624 (DE 3901624).**

See abstract and see front tire in Figure 6 and rear tire in Figure 1. The description of for a motorcycle tire relates to intended use and fails to require tire structure different from that disclosed by German 624.

6) **Claims 38-58, 61 and 64-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haas (US 4,606,389) or Japan 215 (JP 183215) in view of Japan 907 (JP 63-116907), and optionally German 624 (DE 3901624).**

Haas discloses a **front tire for a motorcycle** with a tread having a *straight circumferential groove on the equatorial plane (centerline)* of the tire and inclined grooves on both sides of the circumferential groove. The inclined grooves are connected to the circumferential groove. Haas teaches that the front tire has reduced danger of aquaplaning. With respect to claims 38 and 65, there is no difference

between the claimed front tire and Haas' front tire. One of ordinary skill in the art would readily understand that Haas' motorcycle has a rear tire.

Japan 215 discloses a **front tire for a motor scooter** with a tread having a *zigzag circumferential groove at the equatorial plane (centerline)* and inclined grooves on both sides of the circumferential groove. Japan 215 teaches the front tire reduces splashing of water in front of the driver. See abstract and machine translation. The inclined grooves are connected to the circumferential groove. With respect to claims 38 and 65, there is no difference between the claimed front tire and Japan 215's front tire. One of ordinary skill in the art would readily understand that Japan 215's motor scooter has a rear tire.

Haas and Japan 215 do not recite a rear tire.

As to claims 38 and 65, it would have been obvious to provide Haas or Japan 215 with a rear tire having inclined grooves and a central area defining a substantially null sea/land ratio wherein the central zone of the tread band of the rear tire has a width greater than or equal to about 5% and less than or equal to about 30% of an axial development of the tread band of the rear tire since (1) Japan 907 suggests using a rear tire for a two wheeled vehicle having a tread comprising inclined grooves on both sides of a central area comprising the equatorial plane and having a null sea/land ratio (Figure 2b) and optionally (2) German 624 suggests providing a front tire with a "large" negative ratio (e.g. Figure 6) to reduce aquaplaning and providing a rear tire with a "smaller" negative ratio to improve adhesion (traction). One of ordinary skill in the art would readily appreciate, for example from the optional German 624, that the null sea / land

area along the equatorial plane of a tire improves adhesion (traction). The suggestion to use a tire with a tread central region having a null sea/land area for a motorcycle comes from Japan 907 instead of German 624.

As to claims 39-40, note the front tire of either Haas or Japan 215. Claims 39 and 40 fail to require the central zone to have structure different from that disclosed by Haas or Japan 215. The boundaries of the claimed central zone are not defined by tread structure.

As to claim 41, it would have been obvious to provide the intermediate zone of Japan 215's tire with a sea / land ratio of 15-35% in view of Japan 215's teaching to widely space the inclined grooves for draining water.

As to claims 42-44, the claimed curvilinear shape and inclination angle would have been obvious in view of either the teaching in Haas or Japan 215 to curve the inclined grooves.

As to claim 45, see inclined grooves in figure 2 of Haas.

As to claims 46-47, note inclined grooves of Japan 215.

As to claim 48, see inclined grooves of Haas or Japan 215.

As to claims 49-51, note the zigzag circumferential groove and curved inclined grooves of Japan 215.

As to claim 52, it would have been obvious to provide the pair of tires of Haas or Japan 215 such that the rear tire has a curvature ratio lower than the front tire since it is taken as well known / conventional per se in the motorcycle art to provide a rear tire with a lower curvature ratio than the front tire.

As to claims 53-58 and 61, it would have been obvious to provide the rear tire with transverse grooves as claimed since Japan 907 shows providing the rear tire with curved inclined grooves extending on both sides of the tread from a central zone having a null sea/land ratio.

As to claim 64 and 65, Japan 907 teach mounting tires on a two wheeled vehicle (motorcycle tire). See tire sizes on left column of page 3.

As to claims 66-74, note above comments on the claims dependent on claim 38.

7) Claims 45-47, 58-60 and 62-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haas (US 4,606,389) or Japan 215 (JP 183215) in view of Japan 907 (JP 63-116907), and optionally German 624 (DE 3901624) as applied above and further in view of Nakagawa et al (US 6220320) or Japan 307 (JP 63-315307).

As to claims 45-47, it would have been obvious to provide the front tire of Japan 215 with staggered groups of transverse grooves as claimed in view of (1) Japan 215's teaching to provide inclined grooves on both sides of a tire tread of a front tire for a two wheeled vehicle and (2) either the teaching of Nakagawa et al or Japan 307 to provide staggered groups of transverse inclined grooves on both sides of a motorcycle tire tread.

As to claims 58-60 and 62-63, it would have been obvious to provide the rear tire with staggered groups of transverse grooves as claimed in view of (1) Japan 907's teaching to provide inclined grooves on both sides of a tire tread of a rear tire for a two wheeled vehicle and (2) either the teaching of Nakagawa et al or Japan 307 to provide staggered groups of transverse inclined grooves on both sides of a motorcycle tire

Art Unit: 1791

tread. As to claim 62, Nakagawa et al teaches a bridging groove (groove 3b) and tapered end portions for the inclined grooves.

Remarks

8) No claim is allowed.

9) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (571) 272-1221. The examiner can normally be reached on Mon. - Fri. 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steven D. Maki/
Primary Examiner, Art Unit 1791

Steven D. Maki
August 17, 2009